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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 121004518-3559-02]

RIN 0648-BC66

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;

Reef Fish Fishery of the Gulf of Mexico; Amendment 37;

Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Correcting amendment.

SUMMARY: This action corrects the final rule implementing Amendment 37 to the FMP for the Reef Fish Resources of the Gulf of Mexico (Gulf Reef Fish Amendment 37), which was published in the Federal Register on May 9, 2013. This correcting amendment revises an amendatory instruction that precluded incorporation of new regulatory language in the final rule implementing Gulf Reef Fish Amendment 37 into the Code of Federal Regulations. The intent of this correcting amendment is to correct the amendatory instruction and regulatory text to eliminate confusion among interested persons.

DATES: This correction is effective [insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Anne Marie Eich, 727-824-5305; e-mail: AnneMarie.Eich@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

On May 9, 2013, NMFS published a final rule to implement Gulf Reef Fish Amendment 37 (78 FR 27084). That final rule, in part, revised the recreational annual catch limits (ACLs) and accountability measures (AMs) for gray triggerfish harvested in the Gulf. The management measures contained in the final rule to implement Gulf Reef Fish Amendment 37 revised temporary measures originally implemented in a final temporary rule effective through November 10, 2012 (77 FR 28308, May 14, 2012), and extended through May 15, 2013 (77 FR 67303, November 9, 2012). The final rule implementing Gulf Reef Fish Amendment 37 contained the correct regulatory text but the instruction for amending paragraph (b) of § 622.41 failed to lift the suspension of that paragraph.

Need for Correction

After publication of the final rule for Gulf Reef Fish Amendment 37, NMFS determined that it contained an incorrect amendatory instruction. The amendatory instruction should have

lifted the suspended regulatory text implemented through temporary measures that revised the recreational ACLs and AMs for gray triggerfish harvested in the Gulf, specified in paragraph (b) of § 622.41, as well as revised that paragraph. This correcting amendment is necessary to revise this amendatory instruction.

Correction

As published, the final rule implementing Gulf Reef Fish Amendment 37 contains an error in the amendatory instructions. In § 622.41, the suspension of paragraph (b) should be lifted and then paragraph (b) should be revised. All other information remains unchanged and will not be repeated in this correction.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive prior notice and opportunity for additional public comment for this action because it would be unnecessary and contrary to the public interest. Providing prior notice and the opportunity for public comment is unnecessary because the public received notice and an opportunity to comment on the proposed rule for Gulf Reef Fish Amendment 37 (78 FR 10122, February 13, 2013). This correcting amendment simply revises an amendatory instruction that was incorrect in the final rule. Further, any delay caused by an

additional public comment period might cause confusion because the incorrect ACL is currently in place and would therefore be contrary to the public interest.

For the same reasons, the Assistant Administrator also finds good cause, pursuant to 5 U.S.C. 553(d), to waive the 30-day delay in effective date for this correcting amendment.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are inapplicable. Accordingly, no Regulatory Flexibility Analysis is required and none has been prepared.

This rule has been determined to be not significant under Executive Order 12866.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Gulf of Mexico.

Dated: June 28, 2013.

Alan D. Risenhoover, Director, Office of Sustainable Fisheries,
performing the functions and duties of the Deputy Assistant Administrator
for Regulatory Programs, National Marine Fisheries Service.

Accordingly, 50 CFR part 622 is corrected by making the
following correcting amendments:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH
ATLANTIC

1. The authority citation for part 622 continues to read
as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.41, the suspension of paragraph (b) is lifted
and paragraph (b) is revised to read as follows:

§ 622.41 Annual catch limits (ACLs), annual catch targets
(ACTs), and accountability measures (AMs).

* * * * *

(b) Gray triggerfish--(1) Commercial sector. If commercial landings, as estimated by the SRD, reach or are projected to reach the commercial ACT (commercial quota) specified in § 622.39(a)(1)(vi), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. In addition, if despite such closure, commercial landings exceed the commercial ACL, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the commercial ACL and ACT (commercial quota) for that following year by the amount the prior-year ACL was exceeded. The commercial ACL is 64,100 lb (29,075 kg), round weight.

(2) Recreational sector. (i) Without regard to overfished status, if gray triggerfish recreational landings, as estimated by the SRD, reach or are projected to reach the applicable ACT specified in paragraph (b)(2)(iii) of this section, the AA will file a notification with the Office of the Federal Register, to close the recreational sector for the remainder of the fishing year. On and after the effective date of such a notification, the bag and possession limit of gray triggerfish in or from the Gulf EEZ is zero. This bag and possession limit applies in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued,

without regard to where such species were harvested, i.e. in state or Federal waters.

(ii) In addition to the measures specified in paragraphs (b)(2)(i) of this section, if gray triggerfish recreational landings, as estimated by the SRD, exceed the applicable ACL specified in paragraph (b)(2)(iii) of this section, and gray triggerfish are overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the ACL and the ACT for that following year by the amount of the ACL overage in the prior fishing year, unless the best scientific information available determines that a greater, lesser, or no overage adjustment is necessary.

(iii) The recreational ACL for gray triggerfish is 241,200 lb (109,406 kg), round weight. The recreational ACT for gray triggerfish is 217,100 lb (98,475 kg), round weight. Recreational landings will be evaluated relative to the ACL based on a moving multi-year average of landings, as described in the FMP.

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